

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 333 be recommitted to a Committee of One, its sponsor, with specific instructions to amend as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-4-10.9-11, AS AMENDED BY P.L.14-2000,
- 4 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 UPON PASSAGE]: Sec. 11. (a) Except as provided in subsection (b),
- 6 "industrial development project" includes:
- 7 (1) the acquisition of land, site improvements, infrastructure
- 8 improvements, buildings, or structures, rehabilitation, renovation,
- 9 and enlargement of buildings and structures, machinery,
- 10 equipment, furnishings, or facilities (or any combination of these),
- 11 comprising or being functionally related and subordinate to any
- 12 project (whether manufacturing, commercial, agricultural,
- 13 environmental, or otherwise) the development or expansion of
- 14 which serves the public purposes set forth in IC 4-4-11-2,
- 15 **whether or not the industrial development project is located**
- 16 **in Indiana;**
- 17 (2) educational facility projects; and
- 18 (3) child care facility projects.
- 19 (b) For purposes of the industrial development guaranty fund
- 20 program, "industrial development project" includes the acquisition of
- 21 land, interests in land, site improvements, infrastructure improvements
- 22 (including information and high technology infrastructure (as defined
- 23 in IC 4-4-8-1)), buildings, or structures, rehabilitation, renovation, and

enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any of the following:

- (1) A pollution control facility.
- (2) A manufacturing enterprise.
- (3) A business service enterprise involved in:
 - (A) computer and data processing services; or
 - (B) commercial testing services.
- (4) A business enterprise the primary purpose of which is the operation of an education and permanent marketing center for manufacturers and distributors of robotic and flexible automation equipment.
- (5) Any other business enterprise, if the use of the guaranty program creates a reasonable probability that the effect on Indiana employment will be creation or retention of at least fifty (50) jobs.
- (6) An agricultural enterprise in which:
 - (A) the enterprise operates pursuant to a producer or growout agreement; and
 - (B) the output of the enterprise is processed predominantly in Indiana.
- (7) A business enterprise that is required by a state, federal, or local regulatory agency to make capital expenditures to remedy a violation of a state or federal law or a local ordinance.
- (8) A recycling market development project.
- (9) A high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5).

SECTION 2. IC 4-4-10.9-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. "Pollution control facility" means a facility for the abatement, reduction, or prevention of pollution or for the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used, **whether or not the facility is located in Indiana**. This includes the following:

- (1) Coal washing, coal cleaning, or coal preparation facilities designed to reduce the sulfur and ash levels of Indiana coal.
- (2) Coal-fired boiler facilities designed to reduce emissions while burning Indiana coal.
- (3) Pollution control equipment to allow for the environmentally sound use of Indiana coal.

SECTION 3. IC 4-4-11-2, AS AMENDED BY P.L.273-1999, SECTION 195, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The legislature makes the following findings of fact:

- (1) That there currently exists in certain areas of the state **and the United States** critical conditions of unemployment or environmental pollution, including water pollution, air pollution,

1 sewage and solid waste, radioactive waste, thermal pollution,
 2 radiation contamination, and noise pollution, and that these
 3 conditions may well exist, from time to time, in other areas of the
 4 state **and the United States affecting the state or certain areas**
 5 **of the state.**

6 (2) That in some areas of the state such conditions are chronic and
 7 of long standing and that without remedial measures they may
 8 become so in other areas of the state **and the United States**
 9 **affecting the state or certain areas of the state.**

10 (3) That economic insecurity due to unemployment or
 11 environmental pollution is a menace to the health, safety, morals,
 12 and general welfare of not only the people of the affected areas
 13 but of the people of the entire state.

14 (4) That involuntary unemployment and its resulting burden of
 15 indigency falls with crushing force upon the unemployed worker
 16 and ultimately upon the state in the form of public assistance and
 17 unemployment compensation.

18 (5) That security against unemployment and the resulting spread
 19 of indigency and economic stagnation in the areas affected can
 20 best be provided by:

21 (A) the promotion, attraction, stimulation, rehabilitation, and
 22 revitalization of industrial development projects, rural
 23 development projects, mining operations, and agricultural
 24 operations that involve the processing of agricultural products;

25 (B) the promotion and stimulation of international exports; and

26 (C) the education, both formal and informal, of people of all
 27 ages throughout the state by the promotion, attraction,
 28 construction, renovation, rehabilitation, and revitalization of
 29 educational facility projects.

30 (6) That the present and prospective health, safety, morals, right
 31 to gainful employment, and general welfare of the people of the
 32 state require as a public purpose the abatement or control of
 33 pollution, the promotion of increased educational enrichment
 34 (including cultural, intellectual, scientific, or artistic
 35 opportunities) for people of all ages through new, expanded, or
 36 revitalized educational facility projects, and the promotion of
 37 employment creation or retention through development of new
 38 and expanded industrial development projects **that may affect**
 39 **the state or certain areas of the state**, rural development
 40 projects, mining operations, and agricultural operations that
 41 involve the processing of agricultural products.

42 (7) That there is a need to stimulate a larger flow of private
 43 investment funds from commercial banks, investment bankers,
 44 insurance companies, other financial institutions, and individuals
 45 into such industrial development projects, rural development
 46 projects, mining operations, international exports, and agricultural

operations that involve the processing of agricultural products in the state.

(8) That the authority can encourage the making of loans, **including loan guaranties**, or leases for creation or expansion of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, thus putting a larger portion of the private capital available in Indiana for investment to use in the general economic development of the state.

(9) That the issuance of bonds of the authority **and the making of loan guaranties by the authority** to create a financing pool for industrial development projects **and otherwise undertaking the financing of industrial development projects** promoting a substantial likelihood of opportunities for:

(A) gainful employment;

(B) business opportunities;

(C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);

(D) the abatement, reduction, or prevention of pollution;

(E) the removal or treatment of any substances in materials being processed that otherwise would cause pollution when used; or

(F) increased options for and availability of child care;

will improve the health, safety, morals, and general welfare of the people of the state and constitutes a public purpose for which the authority shall exist and operate, **whether or not the projects are located within or outside the state so long as they affect the state or certain areas of the state.**

(10) That the issuance of bonds of the authority to create a funding source for the making of guaranteed participating loans will promote and encourage an expanding international exports market and international exports sales and will promote the general welfare of all of the people of Indiana by assisting Indiana businesses through stimulation of the expansion of international exports sales for Indiana products and services, especially those of small and medium-sized businesses, by providing financial assistance through the authority.

(b) The Indiana development finance authority shall exist and operate for the public purposes of:

(1) promoting opportunities for gainful employment and business opportunities by the promotion and development of industrial development projects, rural development projects, mining operations, international exports, and agricultural operations that involve the processing of agricultural products, in any areas of the state **or the United States affecting the state or certain areas**

1 **of the state;**

2 (2) promoting the educational enrichment (including cultural,
3 intellectual, scientific, or artistic opportunities) of all the people
4 of the state by the promotion and development of educational
5 facility projects;

6 (3) promoting affordable farm credit and agricultural loan
7 financing at interest rates that are consistent with the needs of
8 borrowers for farming and agricultural enterprises;

9 (4) preventing and remediating environmental pollution,
10 including water pollution, air pollution, sewage and solid waste
11 disposal, radioactive waste, thermal pollution, radiation
12 contamination, and noise pollution affecting the health and well
13 being of the people of the state by the promotion and development
14 of industrial development projects, **whether or not the projects**
15 **are located within or outside the state so long as they affect**
16 **the state or certain areas of the state; and**

17 (5) promoting affordable and accessible child care for the people
18 of the state by the promotion and development of child care
19 facilities.

20 SECTION 4. IC 4-4-11-15 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The
22 authority is granted all powers necessary or appropriate to carry out and
23 effectuate its public and corporate purposes under this chapter,
24 IC 4-4-21, and IC 15-7-5, including but not limited to the following:

25 (1) Have perpetual succession as a body politic and corporate and
26 an independent instrumentality exercising essential public
27 functions.

28 (2) Without complying with IC 4-22-2, adopt, amend, and repeal
29 bylaws, rules, and regulations not inconsistent with this chapter,
30 IC 4-4-21, and IC 15-7-5 and necessary or convenient to regulate
31 its affairs and to carry into effect the powers, duties, and purposes
32 of the authority and conduct its business.

33 (3) Sue and be sued in its own name.

34 (4) Have an official seal and alter it at will.

35 (5) Maintain an office or offices at a place or places within the
36 state as it may designate.

37 (6) Make and execute contracts and all other instruments
38 necessary or convenient for the performance of its duties and the
39 exercise of its powers and functions under this chapter, IC 4-4-21,
40 and IC 15-7-5.

41 (7) Employ architects, engineers, attorneys, inspectors,
42 accountants, agriculture experts, silviculture experts, aquaculture
43 experts, and financial experts, and such other advisors,
44 consultants, and agents as may be necessary in its judgment and
45 to fix their compensation.

46 (8) Procure insurance against any loss in connection with its

property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by this chapter, IC 4-4-21, and IC 15-7-5.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority or for reinsurance on amounts paid from the industrial development project guaranty fund, including the power to pay premiums on any insurance or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this chapter, IC 4-4-21, and IC 15-7-5, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with this chapter, IC 4-4-21, or IC 15-7-5.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 15-7-4.9-2), rural development project (as defined in IC 15-7-4.9-19.5), industrial development project, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to this chapter, IC 4-4-21, and IC 15-7-5.

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

1 (15) To the extent permitted under its contract with the holders of
2 the bonds of the authority, consent to any modification with
3 respect to the rate of interest, time, and payment of any
4 installment of principal or interest, or any other term of any
5 contract, loan, loan note, loan note commitment, contract, lease,
6 or agreement of any kind to which the authority is a party.

7 (16) To the extent permitted under its contract with the holders of
8 bonds of the authority, enter into contracts with any lender
9 containing provisions enabling it to reduce the rental or carrying
10 charges to persons unable to pay the regular schedule of charges
11 when, by reason of other income or payment by any department,
12 agency, or instrumentality of the United States of America or of
13 this state, the reduction can be made without jeopardizing the
14 economic stability of the agricultural enterprise, rural
15 development project, or industrial development project being
16 financed.

17 (17) Invest any funds not needed for immediate disbursement,
18 including any funds held in reserve, in direct and general
19 obligations of or obligations fully and unconditionally guaranteed
20 by the United States, obligations issued by agencies of the United
21 States, obligations of this state, or any obligations or securities
22 which may from time to time be legally purchased by
23 governmental subdivisions of this state pursuant to IC 5-13, or
24 any obligations or securities which are permitted investments for
25 bond proceeds or any construction, debt service, or reserve funds
26 secured under the trust indenture or resolution pursuant to which
27 bonds are issued.

28 (18) Collect fees and charges, as the authority determines to be
29 reasonable, in connection with its loans, guarantees, advances,
30 insurance, commitments, and servicing.

31 (19) Cooperate and exchange services, personnel, and information
32 with any federal, state, or local government agency, or
33 instrumentality of the United States or this state.

34 (20) Sell, at public or private sale, with or without public bidding,
35 any loan or other obligation held by the authority.

36 (21) Enter into agreements concerning, and acquire, hold, and
37 dispose by any lawful means, land or interests in land, building
38 improvements, structures, personal property, franchises, patents,
39 accounts receivable, loans, assignments, guarantees, and
40 insurance needed for the purposes of this chapter, IC 4-4-21, or
41 IC 15-7-5.

42 (22) Take assignments of accounts receivable, loans, guarantees,
43 insurance, notes, mortgages, security agreements securing notes,
44 and other forms of security, attach, seize, or take title by
45 foreclosure or conveyance to any industrial development project
46 when a guaranteed loan thereon is clearly in default and when in

the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease, or rent such industrial development project for any use.

(23) Expend money, as the authority considers appropriate, from the industrial development project guaranty fund created by section 16 of this chapter.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof, with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.

(31) Adopt rules governing its activities authorized under this chapter, IC 4-4-21, and IC 15-7-5.

(32) Use the proceeds of bonds to make guaranteed participating loans.

(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.

(34) Sell and guarantee **leases, loans, and** securities.

(35) Make guaranteed participating loans under IC 4-4-21-26.

(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes

or other obligations of the authority.

(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of this chapter or IC 4-4-21.

(38) Provide financial counseling services to Indiana exporters.

(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, **the United States, any state**, any federal or state agency, municipality, **person**, private organization, or other source, **whether located within or outside the state**.

(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.

(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.

(42) Make guarantees and administer the agricultural loan and rural development project guarantee fund established by IC 15-7-5.

(43) Take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the authority the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money, as the authority considers appropriate, from the agricultural loan and rural development project guarantee fund created by IC 15-7-5-19.5.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Do any act necessary or convenient to the exercise of the powers granted by this chapter, IC 4-4-21, or IC 15-7-5, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

SECTION 5. IC 4-4-11-16 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) There is
2 created an industrial development project guaranty fund which shall be
3 used by the authority as a nonlapsing, revolving fund for carrying out
4 the provisions of the guaranty program. The industrial development
5 project guaranty fund shall consist of such money as may be
6 appropriated by the general assembly. To this sum shall be charged
7 those expenses of the authority attributable and allocated by the
8 authority to the authority's guaranty program, including interest,
9 principal, and lease payments required by loan or lease defaults under
10 the authority's guaranty program, and to the sum shall be credited that
11 income of the authority attributable and allocated by the authority to
12 the authority's guaranty program, including guarantee premiums.

13 (b) If the authority makes a written finding that the guarantee of a
14 particular loan secured by, or lease of, real property or tangible or
15 intangible personal property to or for the benefit of any industrial
16 development project, mining operation, or agricultural operation that
17 involves the processing of agricultural products would tend to
18 accomplish the purposes of this chapter, including the creation or
19 retention of employment in Indiana through the guarantee of the loan
20 or lease, and if the authority shall further find that the proposed
21 borrower or lessee cannot obtain the loan or lease upon reasonable
22 terms, the authority may, under its guaranty program, guarantee the
23 loan or lease upon such terms and conditions as the authority may
24 prescribe. No new or additional guarantee of a loan or lease under this
25 subsection or subsection (c) or (h) may be entered into if the guarantee
26 would cause the outstanding aggregate guarantee obligations with
27 respect to all loans and leases guaranteed under this subsection and
28 subsections (c) and (h) to exceed eight (8) times the amount of money
29 in the industrial development project guaranty fund. The amount of all
30 guarantees by the authority of loans or leases to or for the benefit of any
31 single industrial development project, mining operation, or agricultural
32 operation that involves the processing of agricultural products shall not
33 exceed two million dollars (\$2,000,000), less the outstanding aggregate
34 principal balance under any loans made and owed to the authority
35 under subsection (h) to or for the benefit of the project or operation. A
36 guarantee of either a loan secured by real estate or a real estate lease
37 shall not exceed ninety percent (90%) of the unpaid principal balance
38 of the loan from time to time outstanding or ninety percent (90%) of the
39 amount of any lease payment, as applicable, or ninety percent (90%) of
40 the appraised fair market value of the real estate, whichever is less. A
41 guarantee of a loan secured by personal property or of a personal
42 property lease shall not exceed seventy-five percent (75%) of the
43 unpaid principal balance of the loan from time to time outstanding or
44 seventy-five percent (75%) of the amount of any lease payment, as
45 applicable, or seventy-five percent (75%) of the fair market value of the
46 personal property, whichever is less. A guarantee involving both real

1 estate and personal property may not exceed the percentage
 2 proportionate to each type of property. To be eligible for a guarantee
 3 under this section, a loan or lease must:

- 4 (1) be one which is to be made to and held by a lender or lessor
 5 approved by the authority as responsible and able to service the
 6 loan or lease properly;
- 7 (2) involve a principal obligation or lease payments, as
 8 applicable, which may include initial service charges and
 9 appraisal, inspection, and other fees approved by the authority;
- 10 (3) have a maturity or term satisfactory to the authority but in no
 11 case later than twenty (20) years from the date of the guaranty;
- 12 (4) contain payment terms satisfactory to the authority requiring
 13 periodic payments by the developer or user which shall include
 14 principal and interest payments, cost of local property taxes and
 15 assessments, land lease rentals, if any, insurance on the property,
 16 as applicable, and such guarantee premiums as may be fixed by
 17 the authority; and
- 18 (5) contain such terms and provisions with respect to property
 19 insurance, repairs, alterations, payment of taxes and assessments,
 20 default reserves, delinquency charges, default remedies,
 21 anticipation of maturity, additional and secondary liens, and other
 22 matters as the authority may prescribe.

23 (c) The authority may guarantee an unsecured loan for:

- 24 (1) working capital purposes, if the authority determines, under
 25 criteria that it establishes, that the loan for working capital:
 26 (A) is for an industrial development project, a mining
 27 operation, or an agricultural operation that involves the
 28 processing of agricultural products; and
 29 (B) will lead directly to increased production or job creation or
 30 retention through sales of products or provision of services to
 31 federal, state, or local government, private businesses, or
 32 individuals, or through exports to foreign markets; or
- 33 (2) capital expenditures, if the authority determines, under criteria
 34 that the authority establishes, that the loan is for an industrial
 35 development project described in IC 4-4-10.9-11(b)(7).

36 The loan guarantee may not exceed five hundred thousand dollars
 37 (\$500,000) for any single project or operation, and may be in addition
 38 to any other guarantees of the authority under this section. The
 39 guarantee terms must include a time limit for working capital loan
 40 guarantees that may not exceed eighteen (18) months. However, the
 41 guarantees are renewable. A loan guarantee may not exceed eighty
 42 percent (80%) of the unpaid principal balance from time to time
 43 outstanding of the loan being guaranteed. The authority may impose
 44 such additional terms as it considers appropriate for any particular
 45 project or operation.

46 (d) The authority is authorized to fix guarantee premiums for the

1 guarantee under this section of any loan or lease outstanding at the
 2 beginning of each year or at the time the guarantee is entered into, and
 3 the authority is authorized to fix loan application, placement,
 4 origination, commitment, administrative, processing, or other fees or
 5 charges in connection with the authority's powers under subsection (h).
 6 These premiums, fees, or charges shall be payable in amounts or based
 7 upon formulas established by the authority and may be payable, at the
 8 election of the authority, in whole or in part, in the form of cash, shares
 9 of stock, warrants for the purchase of shares of stock, or other
 10 securities, property, or rights acceptable to the authority. These
 11 premiums, fees, or charges shall be payable by the developer or user to
 12 the authority in a manner prescribed by the authority.

13 (e) Notwithstanding section 19(a)(1) of this chapter, any guarantee
 14 made by the authority under subsection (b), (c), or (h) may be effected
 15 or enhanced, in whole or in part, through the provision by the authority
 16 of a letter of credit or an equivalent form of credit enhancement
 17 instrument. However, the maximum principal payment obligations of
 18 the authority under the credit instrument, as the same may be effective
 19 from time to time, is the amount of the guarantee or portion of the
 20 guarantee made under subsection (b), (c), or (h), and for purposes of
 21 the limitations on the amount of guarantees under subsection (b), (c),
 22 or (h), and the term of any letter of credit may not exceed the respective
 23 terms established for guarantees or loans under subsections (b), (c), and
 24 (h).

25 (f) Notwithstanding the provisions of any other law, loans or leases
 26 guaranteed or made by the authority are legal investments for all
 27 insurance companies, trust companies, banks, investment companies,
 28 savings banks, executors, trustees and other fiduciaries, and pension or
 29 retirement funds, as well as the board for depositories.

30 (g) To further the purposes of this chapter, and subject to this
 31 chapter, the authority may also use any part of the industrial
 32 development project guaranty fund to guarantee any bonds issued by
 33 the authority under this chapter or by any authorized issuer under
 34 IC 36-7-12. With regard to direct obligations of the authority that are
 35 also guaranteed by the authority, the authority may permit a
 36 subordination of any valid security agreement, mortgage, combinations
 37 thereof, or other appropriate documents securing the direct obligations
 38 if the authority in its discretion determines that the subordination is
 39 reasonably necessary to accomplish the objectives of the industrial
 40 development project undertaken by the authority.

41 (h) To further the purposes of this chapter, and in addition to the
 42 authority's other powers under this chapter, the authority may, upon a
 43 written finding as described in subsection (b), make direct loans, from
 44 money in the industrial project guaranty fund, to or for the benefit of
 45 any industrial development project, mining operation, or agricultural
 46 operation that involves the processing of agricultural products, upon

the terms and conditions that the authority may prescribe. No new or additional loan may be made if the loan would cause the then outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this subsection and subsections (b) and (c) to exceed eight (8) times the amount of money then in the industrial development project guaranty fund, or would cause the then outstanding aggregate principal balance of all loans made under this subsection and then owing to the authority to exceed twenty percent (20%) of the amount of money then in the industrial development project guaranty fund. The principal amount of such a loan to or for the benefit of a project or operation may not exceed one million dollars (\$1,000,000), less the then outstanding aggregate guarantee obligations with respect to any loans or leases guaranteed under this subsection and subsections (b) and (c) to or for the benefit of that project or operation. With respect to any loan made under this subsection, a loan agreement with the authority must contain the following terms:

- (1) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter.
- (2) The term of the loan, which must not be later than twenty (20) years from the date of the loan.
- (3) The repayment schedule.
- (4) The interest rate or rates of the loan, which may include variations in the rate, but which may not be less than the amount necessary to cover all expenses of the authority in making the loan.
- (5) Any other terms and provisions that the authority requires.

In addition, a loan agreement with the authority under this subsection may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor, and a requirement of any other type or types of security or collateral that the authority may consider to be reasonable or necessary. A loan made under this subsection may be sold by the authority, and the authority may permit other lenders to participate in a loan made under this subsection, at the time or times and upon the terms and conditions as the authority considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the authority, upon terms and conditions established by the authority.

(i) All proceeds received by the authority from the disposal by sale or in some other manner of property it may have acquired in accordance with section 15 of this chapter and in connection with its guaranty program or otherwise under this section shall be credited to the industrial development project guaranty fund.

(j) Upon the issuance of a loan or a guarantee of a loan or lease, any expenses incurred by the authority in connection with the loan or guarantee or the projects or operations for which the loan or guarantee

1 is being made shall be reimbursed to the authority by the borrower, in
 2 the case of a loan (to the extent not provided for under subsection (d)),
 3 or by the borrower, lender, lessee, or lessor, in the case of a guarantee
 4 of a loan or lease, from the proceeds of the loan or the payments under
 5 the lease or otherwise.

6 **(k) Notwithstanding any other law, this section is in addition to,**
 7 **and not in limitation of, the authority's other powers heretofore or**
 8 **hereafter existing under this chapter to borrow moneys, issue**
 9 **bonds, make contracts, guaranties and loans, and use moneys in the**
 10 **guaranty fund.**

11 SECTION 6. IC 4-4-11-16.5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.5. (a) There is
 13 created the business development loan fund that shall be used by the
 14 authority as a nonlapsing, revolving fund. The business development
 15 loan fund consists of the following:

16 (1) Money appropriated by the general assembly.

17 (2) The repayment proceeds of loans made to businesses from the
 18 fund.

19 (3) Money received from any other source, **including proceeds**
 20 **of bonds sold to or loans made to the authority by the board**
 21 **for depositories under IC 5-13-12-12, and any fees received by**
 22 **the authority in connection with the making of loans and loan**
 23 **guaranties under this section.**

24 (b) Subject to subsection ~~(c)~~, **(d)**, the authority may make a loan **or**
 25 **loan guaranty** from the business development loan fund to a business
 26 located in Indiana if the authority makes a written finding that the loan
 27 **or loan guaranty** would accomplish the purposes of this chapter by
 28 enabling the business to carry out an industrial development project
 29 that will do any of the following:

30 (1) Improve the technological capacity or productivity of the
 31 business.

32 (2) Enhance the protection of Indiana's environment.

33 (3) Permit the business to expand facilities, establish new
 34 facilities, or make site improvements or infrastructure
 35 improvements.

36 (c) **Subject to subsection (d), the authority may make a loan or**
 37 **loan guaranty from the business development loan fund to a**
 38 **business located outside Indiana affecting a leading Indiana**
 39 **business, if:**

40 **(1) the authority makes a written finding that the loan or loan**
 41 **guaranty would accomplish the purposes of this chapter by**
 42 **enabling the business to carry out an industrial development**
 43 **project that will:**

44 **(A) improve the technological capacity or productivity of**
 45 **the leading Indiana business.**

46 **(B) enhance the protection of Indiana's environment;**

(C) permit the leading Indiana business to expand facilities, establish new facilities, or make site or infrastructure improvements; or

(D) permit a leading Indiana business to preserve or retain jobs, prevent economic insecurity resulting from unemployment or environmental pollution, or otherwise preserve the health, safety, morals, and general welfare of the state or the area of the state where the leading Indiana business is headquartered; and

(2) the general assembly has provided for the making of the loan or loan guaranty by specifically authorizing the making of the loan or loan guaranty in the appropriation act and the loan or loan guarantee is approved by the budget agency after review by the budget committee.

(d) With respect to any loan or loan guaranty made under this section, a loan or loan guaranty agreement with the authority must contain the following terms:

(1) **If a loan is made, a requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter, or if a loan guaranty is made, a requirement that the proceeds of the loan guaranteed be used for specified purposes consistent with and in furtherance of the purposes of the authority under this chapter.**

(2) The term of the loan or loan guaranty, which must not be later than ~~fifteen (15)~~ **ten (10)** years from the date of the loan or loan guaranty.

(3) **If a loan is made, the repayment schedule for the loan.**

(4) **If a loan is made, the interest rate or rates of the loan, which may include variations in the rate, but that may not be less than the amount necessary to cover all costs and expenses of the authority in making the loan.**

(5) Any other terms and provisions that the authority requires, **including, subject to subsection (h), collateral or security requirements for the loan or loan guaranty, and any basis for forgiving payment of any loan or loan guaranty.**

(e) Notwithstanding any other law, including IC 5-13-12, the authority may borrow money from the board for depositories from time to time, and issue its bonds as evidence of the loans, for the purposes of funding the business development loan fund and making loans to businesses under this section. Bonds sold to the board for depositories and loans received from the board for depositories shall be on the terms and subject to the provisions agreed to by the authority and the board for depositories in bond purchase agreements or loan agreements, which must include provisions stating that any bond issued by the authority or any loan received by the authority under this subsection shall not

1 constitute a debt, liability, or obligation of the state, or a pledge or
 2 lending of credit of the faith and credit of the state, but shall be
 3 payable solely as provided in the bond purchase agreement or loan
 4 agreement, including the repayment proceeds of loans made by the
 5 authority from the business development loan fund. This
 6 subsection is all the authority the authority needs to issue bonds to,
 7 and receive loans from, the board for depositories, and to enter
 8 into bond purchase agreements and loan agreements. However, the
 9 authority may not issue bonds under this subsection unless the
 10 general assembly has provided for the issuance of the bonds by
 11 specifically authorizing the issuance of the bonds in the
 12 appropriation act, and the issuance of the bonds is approved by the
 13 budget agency after review by the budget committee.

14 (f) As used in this section, "leading Indiana business" means a
 15 business that:

16 (1) is headquartered in a county having a population of more
 17 than sixty thousand (60,000) but less than sixty-four thousand
 18 (64,000);

19 (2) is a Fortune 500 company, as of April 16, 2001, when
 20 ranked by measures of revenues, profits, assets, stockholders'
 21 equity, market value, profit and total return to investors;

22 (3) pays wages at levels that are not less than two hundred
 23 percent (200%) of the county average wage, calculated by the
 24 Indiana department of commerce, paid in the county in which
 25 the business is headquartered; and

26 (4) is a global business participating in international markets.

27 (g) As used in this section, "loan" includes any financing lease
 28 of personal property owned by the authority to a business
 29 described in this section.

30 (h) The authority must be collateralized or secured on the same
 31 basis as a lender providing commercial or other conventional
 32 financing for the industrial development project or a related
 33 project being undertaken in connection with the industrial
 34 development project, provided that, if in the authority's judgment
 35 it is necessary or desirable to assure better commercial or
 36 conventional financing terms and thereby better assure the success
 37 of the industrial development project or related project, the
 38 authority is authorized to accept a junior and subordinate
 39 collateral or security position. However, the authority's collateral
 40 or security position must be senior and prior to the collateral or
 41 security interest of another state participating in the industrial
 42 development project or related project. As used in this section,
 43 "another state" includes any authority, board, commission, or
 44 instrumentality of the other state and a political subdivision or
 45 other governmental or quasi-governmental unit of the other state.
 46 This subsection does not apply if the authority owns personal
 47 property and leases it to a business described in this section, under

subsection (g).

(i) The aggregate principal amount of bonds, loans, and loan guaranties the authority may make under this section is limited to thirty-five million dollars (\$35,000,000).

(j) In addition to its other powers under this section, the authority may make a loan guaranty as contemplated by this section jointly with the board for depositories and, in addition to using moneys in the business development loan fund, the authority may use not more than two million dollars (\$2,000,000) of moneys in the industrial development guaranty fund to fund the joint loan guaranty.

(k) This section is in addition to, and not in limitation of, the authority's other powers heretofore or hereafter existing under this chapter to borrow money, issue bonds, make contracts, guaranties, and loans, including leases, use moneys in the business development loan fund or guaranty fund, and forgive principal on loans made from the business development loan fund.

(l) The general assembly finds that unique circumstances resulting from the globalization of the state's economy, the state's geographic location as the crossroads of America, and changes in federal environmental regulation create the need for the financing of leading Indiana businesses as provided in this section.

SECTION 7. IC 4-4-11-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. In addition to the industrial development project guaranty fund **and the business development loan fund**, the authority may create and establish such other funds and accounts as may be necessary or desirable for its purposes.

SECTION 8. IC 4-4-11-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39. The issuance of bonds, **the making of loans and loan guaranties**, and the promulgation of rules under this chapter, IC 4-4-21, or IC 15-7-5 need not comply with the requirements of any other state laws applicable thereto. No proceedings, notice, or approval shall be required for the issuance of any bonds or **the making of any loans or loan guaranties** or any instrument or the security therefor, except as **specifically** provided in this chapter. All agricultural enterprises, rural development projects, and industrial development projects for which funds are advanced, loaned, or otherwise provided by the authority under this chapter or IC 15-7-5 must be in compliance with any land use, zoning, subdivision, and other laws of this **or any other** state applicable to the land upon which the agricultural enterprise, rural development project, or industrial development project is located or is to be constructed, but a failure to comply with these laws does not invalidate any bonds issued **or loan or loan guaranty** to finance an agricultural enterprise, rural development project, or industrial development project.

SECTION 9. IC 5-13-12-12 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a)** In addition to the authority given to the board for depositories in this chapter, and notwithstanding any other law, including sections 7 and 8 of this chapter, the board may buy bonds issued by the Indiana development finance authority or make loans to the Indiana development finance authority to fund the business development loan fund and to finance industrial development projects in accordance with IC 4-4-11. The term of bonds or loans shall not exceed ten (10) years. The board may not buy any bond or make any loan under this section unless:

- (1) the authority finds and certifies to the board for depositories that the related industrial development project is in furtherance of the purposes of the Indiana development finance authority and complies with IC 4-4-11; and
- (2) the general assembly has provided for the purchase of the bonds or the making of the loan by specifically authorizing the purchase of bonds or the making of the loan in the appropriation act and the purchase or loan is approved by the budget agency after review by the budget committee.

Bonds purchased by the board for depositories shall be on the terms and subject to the provisions agreed to by the board for depositories and the Indiana development finance authority in bond purchase agreements. Loans made by the board for depositories shall be on the terms and subject to the provisions agreed to by the board for depositories and the Indiana development finance authority in loan agreements. This section is all the authority the board for depositories needs to buy bonds issued by the Indiana development finance authority, to make loans to the Indiana development finance authority, and to enter into bond purchase agreements and loan agreements.

(b) In addition to the authority given to the board for depositories in this chapter, and notwithstanding any other law, including sections 7 and 8 of this chapter, the board may guaranty bonds issued by the Indiana development finance authority and loans and loan guaranties made by the Indiana development finance authority for industrial development projects in accordance with IC 4-4-11. In addition, the board for depositories may make a loan guaranty jointly with the Indiana development finance authority as provided by IC 4-4-11-16.5. The term of loan guaranties shall not exceed ten (10) years. The board may not make any loan guaranty under this section unless:

- (1) the authority finds and certifies to the board for depositories that the related industrial development project is in furtherance of the purposes of the Indiana development finance authority and complies with IC 4-4-11; and
- (2) the general assembly has provided for the guaranty by specifically authorizing the guaranty in the appropriation act

1 and the guaranty is approved by the budget agency after
2 review by the budget committee.

3 **Loan guaranties made by the board for depositories shall be on the**
4 **terms and subject to the provisions agreed to by the board for**
5 **depositories and the Indiana development finance authority in loan**
6 **guaranty agreements. This section is all the authority the board for**
7 **depositories needs to make loan guaranties and to enter into**
8 **guaranty agreements.**

9 **(c) The principal amount of bonds, loans, and loan guaranties**
10 **the board for depositories may buy or make under this section is**
11 **limited to thirty-five million dollars (\$35,000,000). A bond**
12 **purchase agreement, a loan agreement, or a loan guaranty**
13 **agreement made under this section does not constitute a debt,**
14 **liability, or obligation of the state, or a pledge or lending of the**
15 **faith and credit of the state, but shall be paid or provided for in the**
16 **bond purchase agreement, loan agreement, or loan guaranty**
17 **agreement and from the public deposit insurance fund as a special**
18 **fund, and all such agreements shall contain therein a statement to**
19 **the effect that the agreements are not obligations of the state of**
20 **Indiana, or of any political subdivision thereof, but are payable**
21 **solely as provided for in the agreements and from the public**
22 **deposit insurance fund as a special fund."**

23 Renumber all SECTIONS consecutively.

 (Reference is to ESB 333 as printed April 6, 2001.)

Representative Crawford



Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred Engrossed Senate Bill 333, begs leave to report that said bill has been amended as directed.

Representative Crawford